



January 18, 2006

SENATE BILL No. 23

DIGEST OF SB 23 (Updated January 12, 2006 1:47 pm - DI ta)

Citations Affected: IC 6-1.1; noncode.

Synopsis: Communications service infrastructure tax abatement. Provides a five-year deduction from the assessed value of communications service property, including: (1) real property; (2) personal property; and (3) the distributable property of a public utility company. Provides that the deduction is available if the installation, development, or redevelopment of the property is: (1) initiated after December 31, 2005, and before January 1, 2009; and (2) completed within two years. Provides that the amount of the deduction for a year equals the assessed value of the property, multiplied by a specified percentage. Provides that a taxpayer that seeks the deduction for property (other than the distributable property of a public utility company) must apply to the utility regulatory commission (IURC) for certification that: (1) the property is communications service property; and (2) the taxpayer has installed, developed, or redeveloped the property within the prescribed time frames. Prescribes application and filing procedures for deductions for real, personal, and distributable property.

Effective: January 1, 2006 (retroactive).

Hershman

January 9, 2006, read first time and referred to Committee on Rules and Legislative Procedure.

January 17, 2006, amended; reassigned to Committee on Tax and Fiscal Policy.

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SB 23—LS 6074/DI 13+



January 18, 2006

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

SENATE BILL No. 23

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 6-1.1-46 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]:

Chapter 46. Communications Service Infrastructure Tax Abatement

Sec. 1. As used in this chapter, "commission" refers to the Indiana utility regulatory commission created by IC 8-1-1-2.

Sec. 2. (a) As used in this chapter, "communications service" refers to any of the following:

(1) Telecommunications service (as defined in 47 U.S.C. 153(46)).

(2) Information service (as defined in 47 U.S.C. 153(20)).

(b) The term includes:

(1) video service (as defined in IC 8-1-34-14);

(2) broadband service (as defined in IC 8-1-35-1);

(3) advanced services (as defined in 47 CFR 51.5); and

(4) Internet Protocol enabled services;

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1 however classified by the Federal Communications Commission.

2 Sec. 3. (a) As used in this chapter, "communications service
3 distributable property" means property that is:

- 4 (1) necessary to make communications service available to
5 subscribers in one (1) or more service areas in Indiana;
- 6 (2) owned or used by a public utility company subject to
7 taxation under IC 6-1.1-8;
- 8 (3) part of the public utility company's rights-of-way,
9 transmission system, or distribution system; and
- 10 (4) assessed by the department of local government finance
11 under IC 6-1.1-8.

12 The term includes real property and tangible personal property,
13 other than inventory (as defined in IC 6-1.1-3-11(a)).

14 (b) The term does not include the locally assessed property of a
15 public utility company.

16 Sec. 4. (a) As used in this chapter, "communications service
17 personal property" means tangible personal property, other than
18 inventory (as defined in IC 6-1.1-3-11(a)), that:

- 19 (1) is necessary to make communications service available to
20 subscribers in one (1) or more service areas in Indiana;
- 21 (2) is owned by or leased to a provider;
- 22 (3) is located outside the subscriber's premises; and
- 23 (4) before being installed, was never used by its owner for any
24 purpose in Indiana.

25 The term includes all facilities, equipment, hardware, software
26 (other than computer application software), and other personal
27 property necessary to offer communications service. However, the
28 term does not include computers, modems, set top boxes, and
29 related items used by a subscriber to access communications
30 service within the subscriber's home or business.

31 (b) The term includes the following:

- 32 (1) Personal property that is:
 - 33 (A) assessed under IC 6-1.1-3; and
 - 34 (B) not owned or used by a public utility company subject
35 to taxation under IC 6-1.1-8.
- 36 (2) Personal property that is:
 - 37 (A) owned or used by a public utility company subject to
38 taxation under IC 6-1.1-8; and
 - 39 (B) assessed as locally assessed personal property under
40 IC 6-1.1-8.

41 (c) The term does not include personal property that is:

- 42 (1) owned or used by a public utility company subject to

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1 taxation under IC 6-1.1-8; and

2 (2) assessed as distributable property by the department of
3 local government finance under IC 6-1.1-8.

4 Sec. 5. As used in this chapter, "communications service
5 property" refers to any of the following:

6 (1) Communications service distributable property.

7 (2) Communications service personal property.

8 (3) Communications service real property.

9 Sec. 6. (a) As used in this chapter, "communications service real
10 property" means real property that is:

11 (1) necessary to make communications service available to
12 subscribers in one (1) or more service areas in Indiana; and

13 (2) owned by or leased to a provider.

14 The term includes all buildings, improvements, and structures
15 necessary to offer communications service.

16 (b) The term includes the following:

17 (1) Real property that is:

18 (A) assessed under IC 6-1.1-4; and

19 (B) not owned or used by a public utility company subject
20 to taxation under IC 6-1.1-8.

21 (2) Real property that is:

22 (A) owned or used by a public utility company subject to
23 taxation under IC 6-1.1-8; and

24 (B) assessed as locally assessed real property under
25 IC 6-1.1-8.

26 (c) The term does not include real property that is:

27 (1) owned or used by a public utility company subject to
28 taxation under IC 6-1.1-8; and

29 (2) assessed as distributable property by the department of
30 local government finance under IC 6-1.1-8.

31 Sec. 7. (a) As used in this chapter, "developer" refers to a
32 person that installs, develops, or redevelops communications
33 service property in Indiana.

34 (b) The term includes an individual, a corporation, a rural
35 electric membership corporation, a limited or general partnership,
36 a joint venture, a limited liability company, or a nonprofit
37 organization.

38 Sec. 8. As used in this chapter, "development", with respect to
39 communications service real property, means the construction of
40 new communications service real property on:

41 (1) unimproved real estate; or

42 (2) real estate upon which an existing structure is demolished

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to allow for the new construction.

Sec. 9. As used in this chapter, "distributable property", with respect to property that is assessed under IC 6-1.1-8, has the meaning set forth in 50 IAC 5.1-1-9 (as in effect January 1, 2006).

Sec. 10. As used in this chapter, "install", with respect to:

(1) communications service personal property; or

(2) communications service distributable property;

has the meaning set forth in 50 IAC 10-1-2 (as in effect January 1, 2006).

Sec. 11. As used in this chapter, "locally assessed personal property", with respect to property that is assessed under IC 6-1.1-8, has the meaning set forth in 50 IAC 5.1-1-15 (as in effect January 1, 2006).

Sec. 12. As used in this chapter, "locally assessed property", with respect to property that is assessed under IC 6-1.1-8, has the meaning set forth in 50 IAC 5.1-1-16 (as in effect January 1, 2006).

Sec. 13. As used in this chapter, "locally assessed real property", with respect to property that is assessed under IC 6-1.1-8, has the meaning set forth in 50 IAC 5.1-1-17 (as in effect January 1, 2006).

Sec. 14. As used in this chapter, "provider" refers to a person that offers communications service to subscribers in Indiana.

Sec. 15. As used in this chapter, "public utility company" has the meaning set forth in IC 6-1.1-8-2(8).

Sec. 16. As used in this chapter, "redevelopment", with respect to communications service real property, means:

(1) the remodeling, repair, or betterment of property in any manner; or

(2) any enlargement or extension of property.

Sec. 17. As used in this chapter, "subscriber" refers to a customer that receives communications service from a provider.

Sec. 18. As used in this chapter, "taxpayer" refers to a developer that is liable under this article for ad valorem property taxes on communications service property regardless of whether the developer's property is assessed and taxed under:

(1) IC 6-1.1-3;

(2) IC 6-1.1-4; or

(3) IC 6-1.1-8.

Sec. 19. (a) Except as provided in section 27 of this chapter, a taxpayer that installs, develops, or redevelops communications service property is entitled to a deduction from the assessed value of the communications service property if the installation, development, or redevelopment meets the following conditions:

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(1) In the case of communications service personal property and communications service distributable property:

(A) the property to be installed as communications service property is first acquired or produced by the taxpayer after December 31, 2005, and before January 1, 2009; and

(B) the communications service property is installed not later than two (2) years after the date on which the taxpayer first acquires or produces the property under clause (A).

(2) In the case of communications service real property:

(A) the taxpayer begins the physical work of development or redevelopment of the communications service property after December 31, 2005, and before January 1, 2009; and

(B) the communications service property first qualifies for assessment under this article not later than two (2) years after the date on which the taxpayer begins the physical work of development or redevelopment under clause (A).

(b) The deduction provided by this section is first available on the first assessment date:

(1) after the communications service property is installed, in the case of communications service personal property or communications service distributable property; or

(2) on which the communications service property first qualifies for assessment under this article, in the case of communications service real property.

(c) The deduction applies with respect to the taxpayer's property taxes that are first due and payable in the five (5) years immediately following the year that includes the assessment date described in subsection (b).

Sec. 20. (a) This section applies to a taxpayer that develops or redevelops communications service real property.

(b) The amount of the deduction that the taxpayer is entitled to receive under section 19 of this chapter for a particular year is determined as follows:

(1) If the taxpayer develops communications service real property, an amount equal to the product of:

(A) the assessed value of the communications service real property, as determined on the assessment date described in section 19(b)(2) of this chapter; multiplied by

(B) the percentage prescribed in the table set forth in subsection (c).

(2) If the taxpayer redevelops communications service real

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property, an amount equal to the product of:

- (A) the increase in the assessed value resulting from the redevelopment, as determined on the assessment date described in section 19(b)(2) of this chapter; multiplied by
- (B) the percentage prescribed in the table set forth in subsection (c).

(c) The percentage to be used in calculating the deduction under subsection (b) is as follows:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	80%
3rd	60%
4th	40%
5th	20%
6th and thereafter	0%

(d) The amount of the deduction determined under subsection (b) shall be adjusted in accordance with this subsection in the following circumstances:

(1) If a general reassessment of real property occurs within the period of the deduction, the amount determined under subsection (b)(1)(A) or (b)(2)(A) shall be adjusted to reflect the percentage increase or decrease in assessed value that results from the general reassessment.

(2) If an appeal of an assessment is approved that results in a reduction of the assessed value of the communications service real property, the amount of any deduction shall be adjusted to reflect the percentage decrease that results from the appeal.

The department of local government finance shall adopt rules under IC 4-22-2 to implement this subsection.

Sec. 21. (a) This section applies to a taxpayer that installs communications service personal property.

(b) The amount of the deduction that the taxpayer is entitled to receive under section 19 of this chapter for a particular year equals the product of:

- (1) the assessed value of the communications service personal property as of the assessment date for the particular year of the deduction; multiplied by
- (2) the percentage prescribed in the table set forth in subsection (c).

(c) The percentage to be used in calculating the deduction under subsection (b) is as follows:

YEAR OF DEDUCTION	PERCENTAGE
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1	1st	100%
2	2nd	80%
3	3rd	60%
4	4th	40%
5	5th	20%
6	6th and thereafter	0%

7 **Sec. 22. (a) This section applies to a taxpayer that:**

8 **(1) is a public utility company subject to taxation under**
9 **IC 6-1.1-8; and**

10 **(2) installs communications service distributable property.**

11 **(b) The amount of the deduction that the taxpayer is entitled to**
12 **receive under section 19 of this chapter for a particular year equals**
13 **the product of:**

14 **(1) the assessed value of the communications service**
15 **distributable property as of the assessment date for the**
16 **particular year of the deduction; multiplied by**

17 **(2) the percentage prescribed in the table set forth in**
18 **subsection (c).**

19 **(c) The percentage to be used in calculating the deduction under**
20 **subsection (b) is as follows:**

21	YEAR OF DEDUCTION	PERCENTAGE
22	1st	100%
23	2nd	80%
24	3rd	60%
25	4th	40%
26	5th	20%
27	6th and thereafter	0%

28 **Sec. 23. (a) This section applies to a taxpayer that wishes to**
29 **obtain the deduction provided by section 19 of this chapter for:**

30 **(1) communications service real property; or**

31 **(2) communications service personal property.**

32 **Communications service distributable property is not required to**
33 **be certified by the commission under this section.**

34 **(b) A taxpayer that wishes to obtain the deduction provided by**
35 **section 19 of this chapter with respect to communications service**
36 **real property or communications service personal property must**
37 **apply to the commission for a certification that the property**
38 **qualifies as communications service property under section 4 or 6**
39 **of this chapter. The taxpayer shall apply to the commission for a**
40 **certificate under this section before the taxpayer:**

41 **(1) begins the physical work of development or redevelopment**
42 **of the communications service property, as described in**

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section 19(a)(2)(A) of this chapter, in the case of a deduction for communications service real property; or

(2) first acquires or produces the property to be installed as communications service property, as described in section 19(a)(1)(A) of this chapter, in the case of a deduction for communications service personal property.

(c) The application required under subsection (b) must include the following:

(1) The name and address of the taxpayer.

(2) A description of the property for which certification is sought.

(3) An identification of one (1) or more service areas in Indiana in which the property will be used to make communications service available to subscribers.

(4) A description of the type or types of communications service to be provided in each area identified under subdivision (3).

(5) If the taxpayer seeks a deduction for communications service real property, an estimate of the taxpayer's costs to develop or redevelop the property.

(6) If the taxpayer seeks a deduction for communications service personal property, an estimate of the taxpayer's costs:

(A) to acquire or produce the property to be installed as communications service property, as described in section 19(a)(1)(A) of this chapter; and

(B) to install the property, as described in section 19(a)(1)(B) of this chapter.

(7) If the taxpayer seeks a deduction for communications service real property, an estimate of the dates on which:

(A) the taxpayer will begin the physical work of development or redevelopment, in accordance with section 19(a)(2)(A) of this chapter; and

(B) the property will first qualify for assessment under this article, in accordance with section 19(a)(2)(B) of this chapter.

(8) If the taxpayer seeks a deduction for communications service personal property, an estimate of the dates on which:

(A) the taxpayer will first acquire or produce the property to be installed as communications service property, in accordance with section 19(a)(1)(A) of this chapter; and

(B) the property will be installed, in accordance with section 19(a)(1)(B) of this chapter.

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(9) Any other information that the commission considers relevant in determining whether the property qualifies as communications service property under section 4 or 6 of this chapter.

Information provided by the taxpayer under subdivisions (5) and (6) is confidential. This subsection does not empower the commission to require taxpayers to disclose confidential and proprietary business plans and other confidential information without adequate protection of the information. The commission shall exercise all necessary caution to avoid disclosure of confidential information supplied under this subsection.

(d) If the commission determines that the property to be installed, developed, or redeveloped by the taxpayer qualifies as communications service property, the commission shall issue a preliminary certification, on a form prescribed by the commission, for the taxpayer's proposed installation, development, or redevelopment plan.

(e) To receive a deduction under this chapter, the taxpayer must do the following:

(1) For a deduction with respect to communications service real property:

(A) within the time frame set forth in section 19(a)(2)(A) of this chapter, begin the physical work of development or redevelopment of the communications service property certified by the commission under subsection (d); and

(B) within the two (2) year period allowed under section 19(a)(2)(B) of this chapter, develop or redevelop the communications service property to a condition or state of readiness and availability to provide communications service to subscribers, so as to qualify the property for assessment under this article.

(2) For a deduction with respect to communications service personal property:

(A) within the time frame set forth in section 19(a)(1)(A) of this chapter, acquire or produce the property to be installed as communications service property; and

(B) within the time frame set forth in section 19(a)(1)(B) of this chapter, install the communications service property certified by the commission under subsection (d).

(f) Upon meeting the requirements of subsection (e), the taxpayer shall provide proof of the following dates to the commission:

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1 (1) For a deduction with respect to communications service
2 real property:

3 (A) the date on which the taxpayer began the physical
4 work of development or redevelopment of the
5 communications service property; and

6 (B) the first assessment date on which the communications
7 service property is eligible for assessment under this
8 article.

9 (2) For a deduction with respect to communications service
10 personal property:

11 (A) the date on which the taxpayer began acquiring or
12 producing the property to be installed as communications
13 service property; and

14 (B) the date on which the communications service property
15 was installed.

16 The taxpayer shall provide the proof required by this
17 subsection not later than seven (7) days after the date
18 identified in subdivision (1)(B) or (2)(B), whichever applies.

19 (g) Upon receiving proof from a taxpayer under subsection (f),
20 the commission shall verify the dates identified by the taxpayer
21 under subsection (f). If the commission determines that:

22 (1) the dates identified by the taxpayer under subsection (f)
23 are accurate; and

24 (2) the property for which a deduction is sought is the
25 property certified by the commission under subsection (d);
26 the commission shall issue to the taxpayer a certificate of eligibility
27 for the deduction provided by this chapter. The commission shall
28 issue a certificate under this subsection not later than fourteen (14)
29 days after receiving proof from a taxpayer under subsection (f).

30 (h) If the commission determines under subsection (g) that:

31 (1) the taxpayer did not comply with the time periods set forth
32 in section 19(a) of this chapter with respect to any property
33 for which a deduction is sought; or

34 (2) any property for which a deduction is sought was not
35 certified by the commission under subsection (d);

36 the taxpayer forfeits the right to a deduction under this chapter
37 with respect to that property.

38 (i) The commission may adopt rules under IC 4-22-2 to
39 implement this section.

40 Sec. 24. (a) This section applies to a taxpayer that seeks to
41 obtain the deduction provided by section 20 of this chapter with
42 respect to communications service real property.

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(b) A taxpayer to which this section applies must file a certified deduction application, on forms prescribed by the department of local government finance, with the auditor of the county in which the communications service real property is located. Except as otherwise provided in subsection (c) or (f), the deduction application must be filed before May 10 of the year that includes the assessment date described in section 19(b)(2) of this chapter.

(c) If notice of the:

(1) assessment for communications service real property described in section 20(b)(1) of this chapter; or

(2) increase in assessed value of communications service real property described in section 20(b)(2) of this chapter;

for any year is not given to the taxpayer before April 10 of that year, the deduction application required by this section may be filed not later than thirty (30) days after the date the notice of the assessment or the increase in assessed value is mailed to the taxpayer at the address shown on the records of the township assessor.

(d) The deduction application required by this section must include the following:

(1) The name and address of the taxpayer.

(2) A description, in sufficient detail to afford identification, of the communications service real property for which a deduction is claimed.

(3) In the case of communications service real property described in section 20(b)(1) of this chapter, the assessed value of the communications service real property.

(4) In the case of communications service real property described in section 20(b)(2) of this chapter:

(A) the assessed value of the property before the redevelopment of the property; and

(B) the increase in the assessed value of the property resulting from the redevelopment of the property.

(5) The amount of the deduction claimed for the first year of the deduction.

(6) A copy of the:

(A) preliminary certification issued by the commission under section 23(d) of this chapter; and

(B) certificate of eligibility issued by the commission under section 23(g) of this chapter.

(e) A deduction application filed under subsection (b) or (c) applies to the year in which the:

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(1) assessment of the communications service real property is made, in the case of communications service real property described in section 20(b)(1) of this chapter; or

(2) addition to assessed value is made, in the case of communications service real property described in section 20(b)(2) of this chapter.

After the year described in subdivision (1) or (2), the deduction is allowed for the number of years described in section 19(c) of this chapter without any additional deduction application being filed with respect to those years.

(f) A taxpayer that fails to file a deduction application within the dates prescribed in subsection (b) or (c), may file a deduction application between March 1 and May 10 of a subsequent year, as long as the taxpayer has:

- (1) met the requirements of section 23(e) of this chapter; and
- (2) received a certificate of eligibility from the commission under section 23(g) of this chapter.

An application filed under this subsection applies to the year filed and the number of subsequent years allowed under section 19(c) of this chapter, without any additional deduction application needed with respect to the amount of the deduction that would apply to each year allowed under section 19(c) of this chapter if a deduction application had been filed in accordance with subsection (b) or (c).

(g) Upon receipt of an application filed under this section, the county auditor may request that the township assessor of the township in which the property is located review the application. After reviewing the application, and taking into consideration any recommendation made by the township assessor, the county auditor may approve, deny, or alter the deduction amount claimed in the application. If the county auditor does not deny the deduction, the county auditor shall apply the deduction in the amount:

- (1) claimed in the deduction application; or
- (2) as altered by the county auditor.

A county auditor who denies a deduction under this subsection or alters the amount of the deduction shall notify the taxpayer of the county auditor's action.

(h) The amount and period of the deduction provided by section 20 of this chapter are not affected by a change in the ownership of the communications service real property if the new owner of the property:

- (1) continues to make the property available to provide

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communications service to subscribers in the service areas in Indiana identified in the original application to the commission under section 23(c)(3) of this chapter;

(2) notifies:

(A) the commission; and

(B) subscribers in the affected service areas;

of the change in ownership; and

(3) files an application in the manner provided by subsection (f).

(i) The township assessor shall include a notice of the deadlines for filing a deduction application under subsections (b) and (c) with each notice to a taxpayer of:

(1) a new assessment; or

(2) an addition to assessed value.

(j) A taxpayer may appeal any determination of the county auditor under subsection (g) to deny or alter the amount of the deduction by requesting in writing, not later than forty-five (45) days after the county auditor gives the taxpayer notice of the determination, a preliminary conference with the county auditor. An appeal initiated under this subsection is processed and determined in the same manner that an appeal is processed and determined under IC 6-1.1-15.

Sec. 25. (a) This section applies to a taxpayer that seeks to obtain the deduction provided by section 21 of this chapter with respect to communications service personal property.

(b) A taxpayer to which this section applies must file a certified deduction schedule on a form prescribed by the department of local government finance with the township assessor of the township in which the communications service personal property is installed. Except as provided in subsection (e), the deduction is applied in the amount claimed in a certified schedule that a person files with:

(1) a timely personal property return under IC 6-1.1-3-7(a) or IC 6-1.1-3-7(b);

(2) a timely amended personal property return under IC 6-1.1-3-7.5; or

(3) a timely statement under IC 6-1.1-8-23, in the case of communications service personal property that is:

(A) owned or used by a public utility company subject to taxation under IC 6-1.1-8; and

(B) assessed as locally assessed personal property under IC 6-1.1-8.

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The township assessor shall forward to the county auditor and the county assessor a copy of each certified deduction schedule filed under this subsection.

(c) The deduction schedule required by this section must contain the following:

- (1) The name and address of the taxpayer.
- (2) A description, in sufficient detail to afford identification, of the communications service personal property for which a deduction is claimed.
- (3) The amount of the deduction claimed for the first year of the deduction.
- (4) A copy of the:
 - (A) preliminary certification issued by the commission under section 23(d) of the this chapter; and
 - (B) certificate of eligibility issued by the commission under section 23(g) of this chapter.

(d) A deduction schedule must be filed under this section in the year in which the communications service personal property is installed and in each of the immediately succeeding years the deduction is allowed under section 19(c) of this chapter.

(e) The township assessor or the county assessor may:

- (1) review the deduction schedule; and
- (2) before the March 1 that next succeeds the assessment date for which the deduction is claimed, deny or alter the amount of the deduction.

If the township assessor or the county assessor does not deny the deduction, the county auditor shall apply the deduction in the amount claimed in the deduction schedule or in the amount as altered by the township assessor or the county assessor. A township assessor or a county assessor who denies a deduction under this subsection or alters the amount of the deduction shall notify the taxpayer and the county auditor of the assessor's action. The county auditor shall notify the county property tax assessment board of appeals of all deductions applied under this section.

(f) If the ownership of the communications service personal property changes, the deduction provided by section 21 of this chapter continues to apply to the communications service personal property if the new owner:

- (1) continues to make the property available to provide communications service to subscribers in the service areas in Indiana identified in the original application to the commission under section 23(c)(3) of this chapter;

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1 (2) notifies:

2 (A) the commission; and

3 (B) subscribers in the affected service areas;
4 of the change in ownership; and

5 (3) files the deduction schedules required by this section.

6 (g) After a change in ownership described in subsection (f), the
7 amount of the deduction for a particular year equals the product
8 of:

9 (1) the percentage under section 21 of this chapter that would
10 have applied if the ownership of the communications service
11 personal property had not changed; multiplied by

12 (2) the assessed value of the communications service personal
13 property for the year the deduction is claimed by the new
14 owner.

15 (h) A taxpayer may appeal a determination of the township
16 assessor or the county assessor under subsection (e) to deny or
17 alter the amount of the deduction by requesting in writing, not
18 later than forty-five (45) days after the township assessor or the
19 county assessor gives the taxpayer notice of the determination, a
20 preliminary conference with the township assessor or the county
21 assessor. Except as provided in subsection (i), an appeal initiated
22 under this subsection is processed and determined in the same
23 manner that an appeal is processed and determined under
24 IC 6-1.1-15.

25 (i) The county assessor is recused from any action the county
26 property tax assessment board of appeals takes with respect to an
27 appeal under subsection (h) of a determination by the county
28 assessor.

29 Sec. 26. (a) This section applies to a taxpayer that seeks a
30 deduction under section 22 of this chapter with respect to
31 communications service distributable property.

32 (b) A taxpayer to which this section applies shall file a certified
33 deduction schedule with:

34 (1) the department of local government finance; and

35 (2) the county assessor and county auditor of each county
36 containing one (1) or more taxing districts to which the
37 assessed value of the communications service distributable
38 property is to be distributed, as determined by the
39 department of local government finance under
40 IC 6-1.1-8-25(b).

41 The taxpayer shall file a deduction schedule under this section not
42 later than June 30 of the year that includes the assessment date

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described in section 19(b) of this chapter.

(c) The deduction schedule required by this section must contain the following:

(1) The name and address of the taxpayer.

(2) A description, in sufficient detail to afford identification, of the communications service distributable property for which a deduction is claimed.

(3) The assessed value of the communications service distributable property, as:

(A) determined by the department of local government finance under IC 6-1.1-8-26; and

(B) stated in the notice sent to the taxpayer under IC 6-1.1-8-28.

(4) The amount of the deduction claimed for the first year of the deduction, as calculated under section 22(b) of this chapter based on the assessed value reported under subdivision (3).

(d) A deduction schedule must be filed under this section in the year in which the communications service distributable property is installed and in each of the immediately succeeding years the deduction is allowed under section 19(c) of this chapter.

(e) Upon receiving a deduction schedule filed under this section, the department of local government finance shall review the schedule and may approve, deny, or alter the deduction amount claimed in the schedule. Not later than thirty (30) days after receiving the deduction schedule, the department of local government finance shall notify the county auditor, the county assessor, and the taxpayer of the department's decision to approve, deny, or alter the deduction amount claimed in the schedule. If the department of local government finance does not deny the deduction, the county auditor shall apply the deduction in the amount:

(1) claimed in the deduction schedule; or

(2) as altered by the department.

(f) The amount of the deduction allowed under section 22 of this chapter is not affected by a change in the ownership of the communications service distributable property if the new owner of the property:

(1) continues to make the property available to provide communications service to subscribers in Indiana;

(2) notifies:

(A) the department of local government finance; and

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(B) subscribers in the affected service areas;

of the change in ownership; and

(3) files the deduction schedules required by this section.

(g) After a change in ownership described in subsection (f), the amount of the deduction for a particular year equals the product of:

(1) the percentage under section 22 of this chapter that would have applied if the ownership of the communications service distributable property had not changed; multiplied by

(2) the assessed value of the communications service distributable property for the year the deduction is claimed by the new owner.

(h) The department of local government finance shall include a notice of the deadlines for filing a certified deduction schedule under this section with each notice to a taxpayer of the department's tentative assessment of the taxpayer's distributable property under IC 6-1.1-8-28.

(i) A taxpayer may appeal any determination of the department of local government finance under subsection (e) to deny or alter the amount of the deduction. The taxpayer shall initiate any appeal under this subsection by filing the taxpayer's objections to the department's determination under subsection (e) in the same manner as the taxpayer may file objections to the department's assessment of the taxpayer's distributable property under IC 6-1.1-8. An appeal initiated under this subsection shall be processed and determined in the same manner that an appeal is processed and determined under IC 6-1.1-8.

Sec. 27. (a) A taxpayer that qualifies for a deduction for a particular year under:

(1) this chapter; and

(2) another statute;

with respect to the same installation, development, or redevelopment of communications service property may not receive a deduction under both statutes for the installation, development, or redevelopment for that year.

(b) A taxpayer may not receive a deduction under this chapter with respect to communications service property located in an allocation area (as defined in IC 6-1.1-21.2-3), unless the governing body (as defined in IC 6-1.1-21.2-6) of the allocation area adopts a resolution approving the deduction.

(c) The deduction provided by this chapter is not available for any installation, development, or redevelopment of

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1 communications service property that a taxpayer is required to
2 make under the terms and conditions of a settlement agreement
3 approved before July 29, 2004, by the commission under
4 IC 8-1-2.6.

5 Sec. 28. The department of local government finance may adopt
6 rules under IC 4-22-2 to implement this chapter.

7 SECTION 2. An emergency is declared for this act.

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SENATE MOTION

Madam President: I move that Senator Garton be removed as author of Senate Bill 23 and that Senator Hershman be substituted therefor.

GARTON

COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 23, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill be reassigned to the Senate Committee on Tax and Fiscal Policy.

(Reference is to SB 23 as introduced.)

GARTON, Chairperson

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